IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Applicant:	Eric C. Hannah et al.	§	Art Unit:	3688
		§	Examiner:	Jean D. Janvier
Serial No.:	09/690,512	§	Conf. No.:	3230
Filed:	October 17, 2000	§	Atty Docket:	ITL.0482US P10030
For:	Ensuring that Advertisements Are Played	§	Assignee:	Intel Corporation

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APPEAL BRIEF

Date of Deposit: September 8, 2009
I hereby certify that this correspondence is being electronically transmitted on the date indicated above.
Cynthia L. Hayden
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TABLE OF CONTENTS

REAL PARTY IN INTEREST

The real party in interest is the assignee Intel Corporation.

RELATED APPEALS AND INTERFERENCES

Appeal No. 2005-0080, Decision mailed on March 18, 2005.

Appeal No. 2008-0883, Decision mailed on April 14, 2008.

STATUS OF CLAIMS

Claims 1-20 (Canceled).

Claims 21-32 (Rejected).

Claim 33 (Canceled).

Claims 21-32 are rejected and are the subject of this Appeal Brief.

STATUS OF AMENDMENTS

A Notice of Appeal was filed in response to the final office action and, therefore, all amendments have been entered.

SUMMARY OF CLAIMED SUBJECT MATTER

In the following discussion, the independent claims are read on one of many possible embodiments without limiting the claims:

21. A system comprising:

a processor-based device (Figure 1, 10);

a media player (Figure 1, 64) coupled to said processor-based device; and

a watermark detector (Figure 1, 60) coupled to said media player, said watermark detector to detect a watermark included with an advertisement and to control operation of said media player in response to detection of the watermark (specification at page 4, lines 8-20).

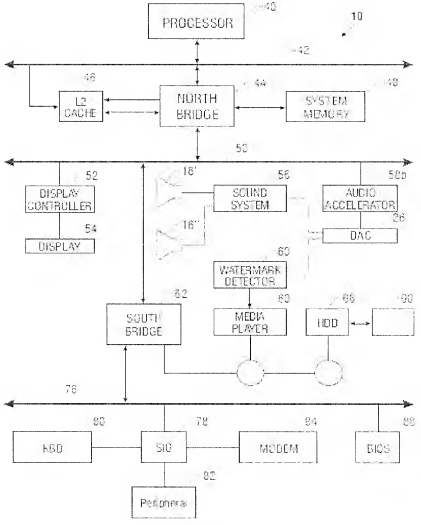

FIG. 1

25. The system of claim 21 wherein said watermark detector determines whether an advertisement was played at a predetermined speed (specification at page 5, lines 15-20).

29. A method comprising:

monitoring a watermark included with an advertisement (Figure 2, 94, specification at page 7, lines 3-10);

accruing a credit after determining that the advertisement was played (Figure 2, 96, specification at page 7, line 23 to page 8, line 8); and

controlling operation of a media player in response to monitoring the watermark (specification at page 4, lines 8-20).

30. An article comprising:

a medium storing instructions that, if executed, enable a processor-based system to:

monitor a watermark included with an advertisement Figure 2, 94, specification at page 7, lines 3-10);

accrue a credit after determining that the advertisement was played (Figure 2, 96, specification at page 7, line 23 to page 8, line 8); and

control operation of a media player in response to monitoring the watermark (specification at page 4, lines 8-20).

At this point, no issue has been raised that would suggest that the words in the claims have any meaning other than their ordinary meanings. Nothing in this section should be taken as an indication that any claim term has a meaning other than its ordinary meaning.

GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

A. Whether claims 29 and 32 are directed to non-statutory subject matter under 35 U.S.C. § 101.

B. Whether claims 21-30 and 31-32 are unpatentable under 35 U.S.C. § 103(a) over Rodriguez.

ARGUMENT

A. Are claims 29 and 32 directed to non-statutory subject matter under 35 U.S.C. § 101?

The rejection of claim 29, based on Section 101, is barred by *res judicata*. This exact same rejection has already been reversed by the Board of Appeals and that decision is now final. That decision is *res judicata* at this point and further re-raising is inappropriate.

Moreover, the M.P.E.P. does not authorize re-raising non-prior art issues after one, much less two, reversals by the Board of Appeals. M.P.E.P. § 1214.04. The only basis for raising new rejections is finding a new reference. No new reference was found with respect to the Section 101 rejection and it is improper for this additional reason.

Finally, there is absolutely no law which in any way supports the test asserted in the office action. See *Ex parte* BO LI, Appeal 2008-1213, decided Nov. 6, 2008 at p. 7.

> Therefore we also conclude that the "useful, concrete and tangible result" inquiry is inadequate and reaffirm that the machine-or-transformation test outlines by the Supreme Court is the proper test to apply." [Footnote: As a result, those portions of our opinions in State Street and AT&T relying solely on a "useful, concrete and tangible result" analysis should no longer be relied on. *In re Bilski*, Case 2007-1130, page 20, (Fed. Cir., Oct. 30, 2008).

B. Are claims 21-30 and 31-32 unpatentable under 35 U.S.C. § 103(a) over Rodriguez?

Claim 21

Likewise, the rejection of claims 21 *et seq.* over the exact same art, which has already been examined by the Board, is improper. There is no authority for reopening prosecution as to a claim over art that has already been considered. The only basis for reopening prosecution is finding a new reference. See M.P.E.P. § 1214.04.

Furthermore, it is noted that the cited reference is completely inapplicable, as already found by the Board.

Finding of fact 8 of the Board in the last reversal is as follows:

> "Further, although Rodriguez discloses a watermark detector to detect a watermark included with an advertisement, it does not disclose that the watermark detector controls operation of a media player in response to detection of the watermark."

The assertions from the office action in connection with the rejection, which are extensive and are very difficult to follow, appear to be directly contrary to the Board's existing finding. See, e.g. page 16.

That Board decision is now final and, thus, principles of *res judicata* apply as well.

Paragraph 9 of the Board's decision states as follows:

> "Rather, Rodriguez appears to disclose that the watermark detector detects a watermark included with an advertisement and then passively monitors whether the recipient views the advertisement in its entirety. If the advertisement is viewed in its entirety, the watermark detector issues a receipt. (Rodriguez, col. 58, ll. 11-13)."

Again, the Examiner's findings are directly contrary. A single reference 103 rejection, based on a reference that the Board has already found does not show the claimed invention, simply does not make out a *prima facie* rejection. There is no basis within the reference itself to modify the reference that teach the very thing the Board said it does not teach or else the Board would have so found. Thus, the rejection is not only untenable, but directly contrary to the Board's decision. As a result, the rejection violates the principles set forth in the M.P.E.P. § 1214. 04 for reopening prosecution, is contrary to principles of *res judicata*, and is, therefore, improper.

Applicant respectfully requests that each of the final rejections be reversed and that the claims subject to this Appeal be allowed to issue.

Respectfully submitted,

Date: September 8, 2009

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CLAIMS APPENDIX

The claims on appeal are:

21. A system comprising:

a processor-based device;

a media player coupled to said processor-based device; and

a watermark detector coupled to said media player, said watermark detector to detect a watermark included with an advertisement and to control operation of said media player in response to detection of the watermark.

22. The system of claim 21 further including a storage coupled to said device, said storage storing instructions that, if executed, enable the processor-based device to monitor the watermark included with the advertisement and accrue a credit after determining the advertisement was played.

23. The system of claim 22 wherein said storage stores instructions that, if executed, enable the device to allow access to content through said media player.

24. The system of claim 22 wherein said storage stores instructions that, if executed, enable the device to accrue a reward in return for playing the advertisement.

25. The system of claim 21 wherein said watermark detector determines whether an advertisement was played at a predetermined speed.

26. The system of claim 21 wherein said storage stores content for subsequent replay by said media player.

27. The method of claim 1 including determining that the advertisement was played, based on the watermark.

28. The article of claim 11 storing instructions that, if executed, enable the processor-based system to determine that the advertisement was played, based on the watermark.

29. A method comprising:

monitoring a watermark included with an advertisement;

accruing a credit after determining that the advertisement was played; and

controlling operation of a media player in response to monitoring the watermark.

30. An article comprising:

a medium storing instructions that, if executed, enable a processor-based system to:

monitor a watermark included with an advertisement;

accrue a credit after determining that the advertisement was played; and

control operation of a media player in response to monitoring the watermark.

31. The article of claim 30, said medium storing instructions to control the media player to play content based on said credit and to use said watermark to accrue said credit.

32. The method of claim 29 including controlling operation of the media player to play content based on said credit and to use said watermark to accrue said credit.

EVIDENCE APPENDIX

None.

RELATED PROCEEDINGS APPENDIX

See Appeal No. 2005-0080 in this case, Decision mailed on March 18, 2005 on the following pages.

See Appeal No. 2008-0883 in this case, Decision mailed on April 14, 2008 on the following pages.

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P10030

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 16

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ERIC HANNAH and MICHAEL BOYD

Appeal No. 2005-0080
Application 09/690,512

ON BRIEF

Before JERRY SMITH, MACDONALD and NAPPI, Administrative Patent Judges.

JERRY SMITH, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on the appeal under 35 U.S.C. § 134 from the examiner's rejection of claims 1-7, 9, 11-17, 19 and 21-30, which constitute all the claims remaining in the application. The disclosed invention pertains to a method and apparatus for monitoring a watermark included with an electronic advertisement. The watermark is used to determine that the advertisement has been played by a user. When it is determined

that the advertisement has been played by the user, the user is either given a credit or a media player is enabled to permit the user to view additional material.

Representative claim 1 is reproduced as follows:

1. A method comprising:
monitoring a watermark included with an advertisement;

accruing a credit after determining that the advertisement was played; and

associating an indication that an advertisement was played with an identifier for a particular user.

The examiner relies on the following references:

Filepp et al. (Filepp)	5,347,632	Sep. 13, 1994
Fite et al. (Fite)	5,557,721	Sep. 17, 1996
Graber et al. (Graber)	5,717,860	Feb. 10, 1998
Merriman et al. (Merriman)	5,948,061	Sep. 07, 1999

The following rejections are on appeal before us:

1. Claims 1-7, 9, 27, 29 and 30 stand rejected under 35 U.S.C. § 101 as being directed to nonstatutory subject matter.

2. Claims 1-7, 9, 11-17, 19, 27 and 28 stand rejected under 35 U.S.C. § 102(b) as being anticipated by the disclosure of Filepp.

3. Claims 21-26 stand rejected under 35 U.S.C. § 102(b) as being anticipated by the disclosure of Fite.

4. Claim 29 stands rejected under 35 U.S.C. § 102(b) as being anticipated by the disclosure of Graber.

5. Claim 30 stands rejected under 35 U.S.C. § 102(b) as being anticipated by the disclosure of Merriman.

Rather than repeat the arguments of appellants or the examiner, we make reference to the briefs and the answer for the respective details thereof.

OPINION

We have carefully considered the subject matter on appeal, the rejections advanced by the examiner and the evidence of anticipation relied upon by the examiner as support for the prior art rejections. We have, likewise, reviewed and taken into consideration, in reaching our decision, the appellants' arguments set forth in the briefs along with the examiner's rationale in support of the rejections and arguments in rebuttal set forth in the examiner's answer.

It is our view, after consideration of the record before us, that the claimed invention is directed to statutory subject matter. We are also of the view that none of the prior art disclosures fully meet the invention as set forth in the claims on appeal. Accordingly, we reverse.

We consider first the rejection of claims 1-7, 9, 27, 29 and 30 under 35 U.S.C. § 101. It is the position of the examiner that these claims do not recite a useful, concrete and tangible

result under the decisions in In re Alappat, 31 USPQ2d 1545 (Fed. Cir. 1994) and State Street Bank & Trust Co. v. Signature Financial Group Inc., 47 USPQ2d 1596 (Fed. Cir. 1998). Essentially, the examiner finds that the claimed invention involves nothing more than the manipulation of an abstract idea and is not tied to any technological art [answer, pages 3-5].

Appellants argue that there is no requirement in 35 U.S.C. § 101 that the claimed invention be performed with interaction of a physical structure. Appellants also argue that a digital watermark is defined as "a pattern of bits embedded into a file used to identify the source of illegal copies" and is, therefore, not an abstract idea as asserted by the examiner [brief, pages 6-7].

The examiner responds that appellants' proposed definition of "watermark" is too narrow. The examiner asserts that a watermark includes any identifying feature which characterizes an advertisement. The examiner argues that the claimed invention can be performed without mechanical intervention or structural limitation [answer, pages 5-9].

Appellants respond that the disclosed invention has substantial utility. They also argue that the examiner is not permitted to assert a definition of the term "watermark" that is

inconsistent with its well established meanings of the term in the art. Appellants argue that there is simply no basis for the examiner's position that a watermark as used in the claimed invention could be an abstract idea [reply brief, pages 1-4].

We will not sustain the examiner's rejection of the claims under 35 U.S.C. § 101. We agree with appellants that the examiner's interpretation of the term "watermark" as used in the claims on appeal is unreasonable. Even though appellants offer the definition of "digital watermark" and the word "digital" does not appear in the claims, we agree with appellants that the term "watermark" should be interpreted as a "digital watermark." The claims recite that an advertisement is "played." We are of the view that the "playing" of an advertisement requires that some form of physical implementation be used. Therefore, we agree with appellants that the claimed playing of the advertisement requires some physical interaction to occur. Since the playing of the advertisement is physical, we agree with appellants that the watermark recited in the claimed invention must be interpreted as a physical or digital watermark which is embedded within the files of the advertisement. When the claimed watermark is interpreted in this manner, it is clear that the

claimed invention is not simply limited to an abstract idea as argued by the examiner.

We now consider the various rejections under 35 U.S.C. § 102. Anticipation is established only when a single prior art reference discloses, expressly or under the principles of inherency, each and every element of a claimed invention as well as disclosing structure which is capable of performing the recited functional limitations. RCA Corp. v. Applied Digital Data Systems, Inc., 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir.); cert. dismissed, 468 U.S. 1228 (1984); W.L. Gore and Associates, Inc. v. Garlock, Inc., 721 F.2d 1540, 1554, 220 USPQ 303, 313 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984).

Appellants argue that neither Filepp, Fite, Graber nor Merriman makes any mention of monitoring a watermark included with an advertisement, that is, monitoring a pattern of bits embedded into a file. Appellants also argue that none of these references teaches or suggests a watermark detector to control operation of a media player in response to detection of a watermark [brief, pages 9-10].

The examiner responds that the user characteristics of Filepp meet the claimed watermark. The examiner also responds that Fite teaches the watermark detection operation by keeping

statistics of advertisement display and by relaying such statistics to a host system. The examiner also asserts that the URL symbols of Graber also meet the claimed watermark. Finally, the examiner responds that the tracking of advertisements in Merriman anticipates the claimed watermark monitoring [answer, pages 10-15].

Appellants respond that none of the applied references show a watermark as reasonably defined or have anything whatsoever to do with such watermarks. Appellants argue that all rejections should be reversed because the examiner's interpretation of the term "watermark" is contrary to the plain meaning of the term [reply brief, page 4].

We will not sustain any of the examiner's rejections of the claims under 35 U.S.C. § 102. As noted above, the only reasonable interpretation of the claimed "watermark" is that it is a digital watermark as argued by appellants. As noted above, a digital watermark is defined as a pattern of bits embedded into a file used to identify the source of illegal copies. None of the references cited by the examiner discloses such a watermark or the monitoring of such a watermark as claimed.

In summary, we have not sustained any of the examiner's rejections of the claims on appeal. Therefore, the decision of the examiner rejecting claims 1-7, 9, 11-17, 19 and 21-30 is reversed.

REVERSED

JERRY SMITH Administrative Patent Judge	)	
ALLEN R. MACDONALD Administrative Patent Judge	)	BOARD OF PATENT APPEALS AND INTERFERENCES
ROBERT E. NAPPI Administrative Patent Judge	)	

JS/dym

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ERIC C. HANNAH and MICHAEL BOYD

Appeal 2008-0883
Application 09/690,512
Technology Center 3600

Decided: April 14, 2008

Before HUBERT C. LORIN, LINDA E. HORNER, and
BIBHU R. MOHANTY, *Administrative Patent Judges*.

HORNER, Administrative Patent Judge.

DECISION ON APPEAL

STATEMENT OF THE CASE

Eric C. Hannah and Michael Boyd (Appellants) seek our review under 35 U.S.C. § 134 of the final rejection of claims 1-7, 9, 11-17, 19, and 21-30, which are all of the pending claims. We have jurisdiction under 35 U.S.C. § 6(b) (2002).

SUMMARY OF DECISION

We REVERSE.

THE INVENTION

The Appellants' claimed invention is to a way to ensure that advertising material inserted in content is actually played as originally designed and intended by the advertiser (Spec. 2: 3-5). Claims 1, 5, and 21, reproduced below, are representative of the subject matter on appeal.

1. A method comprising:

monitoring a watermark included with an advertisement;

accruing a credit after determining that the advertisement was played; and

associating an indication that an advertisement was played with an identifier for a particular user.

5. The method of claim 1 wherein monitoring the watermark includes determining that the advertisement was played at a predetermined speed.

21. A system comprising:

a processor-based device;

a media player coupled to said processor-based device; and

> a watermark detector coupled to said media player, said watermark detector to detect a watermark included with an advertisement and to control operation of said media player in response to detection of the watermark.

THE REJECTIONS

The Examiner relies upon the following as evidence of unpatentability:

Rodriguez	US 6,650,761 B1	Nov. 18, 2003

The following rejections are before us for review:

1. Claims 5, 15, and 25 are rejected under 35 U.S.C. § 112, second paragraph, for failing to point out and distinctly claim the subject matter of the invention.
2. Claims 1-7, 9, 11-17, 19, and 21-30 are rejected under 35 U.S.C. § 102(e) as anticipated by Rodriguez.

ISSUES

The Examiner found that claims 5, 15, and 25 are indefinite, because "it is unclear how the watermark can help determine the speed at which the advertisement was played" (Ans. 3). The Appellants contend that one having ordinary skill in the art would understand what is recited in claims 5, 15, and 25 when the claims are read in light of the Specification (App. Br. 12; Reply Br. 2). The issue before us is whether those skilled in the art would understand what is claimed when the claim is read in light of the Specification.

The Appellants contend that Rodriguez does not anticipate claims 1-7, 9, 11-17, 19, 27, and 28 because it does not disclose associating an indication that an advertisement was played with an identifier for a particular user (App. Br. 13; Reply Br. 3). The Examiner found that this step is implicitly taught or supported in Rodriguez (Ans. 6).

The Appellants further contend that Rodriguez does not anticipate claims 21-26, 29, and 30, because it does not disclose a watermark detector to detect an advertisement including a watermark and control operation of a media player in response to detection of the watermark (App. Br. 13). The Examiner found that Rodriguez discloses controlling the media player such that the entire watermarked advertisement is heard or consumed without the user's interruption (Ans. 7). The issue before us is whether the Appellants have shown that the Examiner erred in rejecting claims 1-7, 9, 11-17, 19, and 21-30 under 35 U.S.C. § 102(e) as anticipated by Rodriguez.

FINDINGS OF FACT

We find that the following enumerated findings are supported by at least a preponderance of the evidence. *Ethicon, Inc. v. Quigg*, 849 F.2d 1422, 1427 (Fed. Cir. 1988) (explaining the general evidentiary standard for proceedings before the Office).

1. Rodriguez discloses using watermarks as a mechanism for confirming receipt of content (Rodriguez, col. 57, ll. 18-19).
2. Rodriguez describes that a content receiving device (e.g., computer, television or set-top box, audio appliance, etc.)

periodically decodes a watermark from the received content to confirm its continued reception. When a changed watermark is detected (i.e., reception of a different content object begins), the duration of the previously-received content is logged, and a receipt is issued (Rodriguez, col. 57, ll. 25-34).

3. Rodriguez discloses that an application of this technology is in advertising verification that allows the duration of the advertising impression to be precisely tracked (Rodriguez, col. 57, l. 65 – col. 58, l. 8).

4. Rodriguez discloses one embodiment in which viewers are provided incentives for viewing advertising in its entirety. In this embodiment, a content-receiving device includes a watermark detector that issues a receipt for each advertisement that it is heard/viewed in its entirety. The receipts can be redeemed for content tokens, monetary value, etc. (Rodriguez, col. 58, ll. 9-28).

5. As such, Rodriguez discloses monitoring a watermark included with an advertisement and accruing a credit after determining that the advertisement was played.

6. Rodriguez does not disclose, however, that the system has any way of identifying the particular recipient viewing the advertisement, and thus it does not disclose, either explicitly or inherently, associating an indication that an advertisement was played with an identifier for a particular user.

7. Rather, Rodriguez appears to disclose that the system issues the receipt so long as the advertisement has been played in its entirety regardless of who has viewed the advertisement.
8. Further, although Rodriguez discloses a watermark detector to detect a watermark included with an advertisement, it does not disclose that the watermark detector controls operation of a media player in response to detection of the watermark.
9. Rather, Rodriguez appears to disclose that the watermark detector detects a watermark included with an advertisement and then passively monitors whether a recipient views the advertisement in its entirety. If the advertisement is viewed in its entirety, the watermark detector issues a receipt (Rodriguez, col. 58, ll. 11-13).

PRINCIPLES OF LAW

35 U.S.C. § 112, second paragraph

The test for definiteness under 35 U.S.C. § 112, second paragraph, is whether "those skilled in the art would understand what is claimed when the claim is read in light of the specification." *Orthokinetics, Inc. v. Safety Travel Chairs, Inc.*, 806 F.2d 1565, 1576 (Fed. Cir. 1986) (citations omitted).

35 U.S.C. § 102

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior

art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987).

ANALYSIS

Rejection of claims 5, 15, and 25 under 35 U.S.C. § 112, second paragraph

The Examiner found that claims 5, 15, and 25 are indefinite, because "it is unclear how the watermark can help determine the speed at which the advertisement was played" (Ans. 3).

Claim 5 further defines the monitoring a watermark step of claim 1 and recites that this step includes "determining that the advertisement was played at a predetermined speed."

Claim 15 further defines the instructions stored on the medium of claim 11 to include an instruction "to determine that an advertisement was played at a predetermined speed."

Claim 25 further defines the function of the watermark detector of claim 21 to determine "whether an advertisement was played at a predetermined speed."

The Appellants' Specification describes a watermark detector that detects whether watermarked material is played in full at the predetermined play speed and is not otherwise muted, masked, fast-forwarded or stripped from the content (Spec. 4:8-15). The Specification further describes that the determination that the commercial was played correctly may be based on stored, predetermined characterizing information for all or a variety of commercials (Spec. 7:11-14). For example, it may be known that all commercials have a predetermined speed and a predetermined duration, or

the watermark detector may access a database to determine the characteristics of a given commercial and then compare that information to what is actually detected (Spec 7:14-22). It is clear from the Appellants' Specification that it is the watermark detector that is capable of determining whether a watermarked advertisement is played at the proper speed. The claims do not recite that the watermark itself determines the speed at which the advertisement was played, as contended by the Examiner.

Thus, we find that one having ordinary skill in the art would understand what is claimed when the claims are read in light of the Specification. Accordingly, we will not sustain the rejection of claims 5, 15, and 25 under 35 U.S.C. § 112, second paragraph, as being indefinite.

Rejection of claims 1-7, 9, 11-17, 19, and 21-30 under 35 U.S.C. § 102(e)

Independent claims 1 and 11 recite associating an indication that an advertisement was played with an identifier for a particular user. As we found *supra*, Rodriguez does not disclose that the system has any way of identifying the particular recipient viewing the advertisement, and thus it does not disclose, either explicitly or inherently, associating an indication that an advertisement was played with an identifier for a particular user (Facts 1-6). Rather, Rodriguez appears to disclose that the system issues a receipt so long as the advertisement has been played in its entirety regardless of who has viewed the advertisement (Fact 7). As such, Rodriguez does not anticipate independent claims 1 and 11 or their dependent claims 2-7, 9, 11-17, 19, 27, and 28.

Independent claims 21, 29, and 30 recite a watermark detector that detects a watermark included with an advertisement and controls operation of a media player in response to detection of the watermark. As we found *supra*, although Rodriguez discloses a watermark detector to detect a watermark included with an advertisement, it does not disclose that the watermark detector controls operation of a media player in response to detection of the watermark (Fact 8). Rather, Rodriguez appears to disclose that the watermark detector detects a watermark included with an advertisement, passively monitors whether a recipient views the advertisement in its entirety, and if so, issues a receipt (Fact 9). We did not find any disclosure in Rodriguez that the media player is configured to prevent the user's interruption of the advertisement being played once the watermark detector detected the presence of a watermark, as asserted by the Examiner. As such, Rodriguez does not anticipate independent claims 21, 29, and 30 or their dependent claims 22-26.

CONCLUSIONS OF LAW

We conclude the Appellants have shown that the Examiner erred in rejecting claims 5, 15, and 25 under 35 U.S.C. § 112, second paragraph and claims 1-7, 9, 11-17, 19, and 21-30 under 35 U.S.C. § 102(e) as anticipated by Rodriguez.

DECISION

The decision of the Examiner to reject claims 1-7, 9, 11-17, 19, and 21-30 is reversed.

REVERSED

vsh

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